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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/068,704 | 02/05/2002 | Charles R. DeJohn | DP-305557 | 9217 |

7590 01/13/2005

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| EXAMINER |
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ALEJANDRO, RAYMOND

| ART UNIT | PAPER NUMBER |
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1745

DATE MAILED: 01/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/068,704

Applicant(s)

DEJOHN ET AL.

Examiner

Raymond Alejandro

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2004.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
4a) Of the above claim(s) 9-20 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-8 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 11 April 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/09/04.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

This office action is responsive to the amendment filed 11/09/04. The applicants have not yet overcome the objection to the abstract and the prior art rejection. Refer to the foregoing amendment for specific details on applicant's rebuttal arguments. However, the present claims are finally rejected over the same art as seen below and for the reasons of record:

Election/Restrictions

1. This application contains claims 9-20 drawn to an invention nonelected with traverse in Paper No. 07/19/04. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on 11/09/04 was considered by the examiner.

Specification

3. Applicant is still reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

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The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Becerra et al 2004/0072049.

The present claims are directed to a storage device wherein the disclosed inventive concept comprises the specific movable barrier.

As to claims 1, 3 and 4:

Becerra et al disclose a fuel container and delivery apparatus which allows for removal of effluents from the fuel cell (ABSTRACT). The fuel container and delivery assembly an exterior housing that is a substantially rigid cartridge 202 enclosing a collapsible fuel container 204, that may be a flexible bladder which is used to hold the liquid fuel for a fuel cell (SECTION 0041/ ABSTRACT). **Figures 2, 5a, 7, 8b** below illustrate embodiments of the fuel container and delivery assembly including the housing structure, cap (top part) and flexible bladder container and its placement inside the housing structure.

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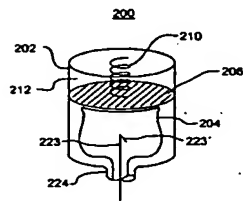


FIG. 2

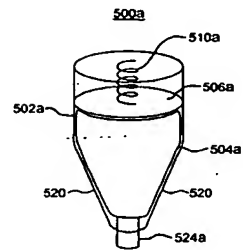


FIG. 5A

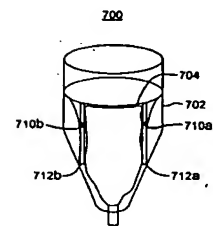


FIG. 7

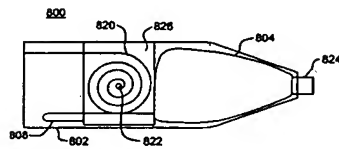
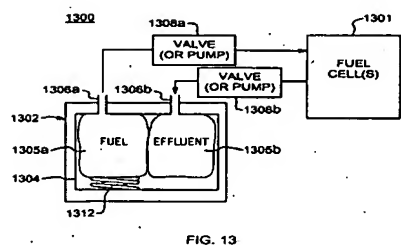
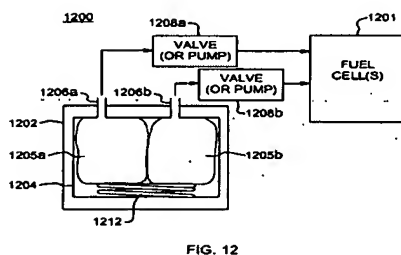
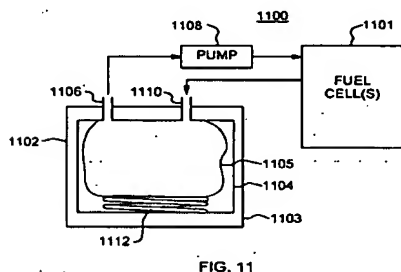


FIG. 8B

In particular, *Figure 11* below depict fuel container and delivery system having a shell that houses an inner cartridge which encloses a collapsible bag or flexible bladder 1105 which contains the fuel solution and a fuel outlet conduit (also referred to herein as the fuel exit port 1106 through which fuel is directed out of the fuel container; additionally, the fuel cartridge has a fuel return port 1110 to enable recirculation of unused fuel back into the fuel container 1102; it may also include a spring 1112 (SECTIONS 0059-0060). Moreover, *Figure 12* also below illustrates the fuel container and delivery system 1202 including a container 1204 that encloses

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dual fuel bladders (or bags) 1205a and 1205b and including fuel outlets 1206a-b (two ports); it may also include a spring 1212 (SECTION 0061-0062). Further, **Figure 13** also below illustrates the fuel container and delivery system 1302 including the second bladder 1305b that is provided to received effluent from the cathode and/or anode aspect of the fuel cell, via effluent inlet 1306b (second port), including water ; wherein the fuel is delivered from the bladder 1305a, via the fuel outlet 1306a (first port) (SECTION 0066/ABSTRACT).



It is also noted that Becerra et al disclose that it should be understood that the concepts described with respect to each of the embodiments may be *interchanged* and varied (SECTION 0063). In addition, it is noted that Becerra et al further disclose that their invention may be readily adapted for use with *a single bladder*, or more than two bladders, or a fuel container and

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a separate effluent container (SECTION 0068). Thus, Becerra et al at once envisage the use of a single flexible bladder container for holding both the fuel and the effluent.

Examiner's note: *as to the specific preamble reciting "for a fuel cell", it is pointed out that the preamble refers to intended use. That is, the claim is directed to a storage device per se and the preamble phrase "for a fuel cell" is only a statement of ultimate intended utility.*

With reference to claims 2 and 5:

Becerra et al disclose the use of a flexible bladder as part of the fuel container and delivery apparatus (SECTION 0041/ABSTRACT).

Concerning claims 6-7:

Becerra et al disclose the use of a plate 206 placed under the force of spring 210 (SECTION 0041). *Thus, such plate-spring embodiment acts as the slidable wall and the spring connected thereto.*

As for claims 8:

Becerra et al teach that the bladder collapsible fuel container holds fuel (SECTION 0041/ABSTRACT).

Thus, the claims are anticipated.

Response to Arguments

6. Applicant's arguments filed 11/09/04 have been fully considered but they are not persuasive.

7. The contention of applicants' arguments is only premised on the assertion that "...the '464 reference (on which the Office Action must rely for a filing date before Applicants' filing

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date) does not contain a Figure 13, and has no disclosure whatsoever of a second cavity having a wastewater port...". In this regard, it is strenuously contested that applicants have failed to notice the entire composition of the prior art rejection which clearly cites and alludes to the disclosure of the '049 application publication fully supported by its parent case the '464 reference.

Applicant is respectfully requested to fairly address the entire body of the rejection set forth in this Final rejection. Not because applicants have identified that the art rejection includes a minuscule and diminutive allusion to a disclosed subject matter not entitled to the earlier January 8, 2002 102(e) date it may be purported and insinuated that the entire compositional body of the art rejection is also invalid as to all of the remaining critical features disclosed therein.

8. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

9. Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond Alejandro whose telephone number is (571) 272-1282. The examiner can normally be reached on Monday-Thursday (8:00 am - 6:30 pm).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick J. Ryan can be reached on (571) 272-1292. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Raymond Alejandro
Examiner
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A handwritten signature in black ink, appearing to read 'RAM', followed by a long horizontal line extending to the right.